

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

TERRY JUNIOR PETERSON,

Plaintiff,

VS.

ROBERT A. MORIN, *et al*,

Defendant.

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CIVIL ACTION NO. 2:11-CV-176

ORDER

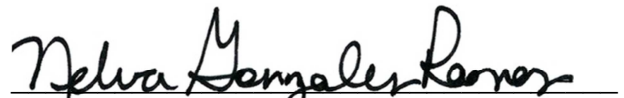
William Berry, Jr. and Gail Dorn, former appointed attorneys for Plaintiff, have filed a partial appeal of Magistrate Judge B. Janice Ellington's Order dated February 10, 2015. D.E. 125, 127. The attorneys had filed a motion to withdraw and requested leave to file a petition for attorney fees and expert costs if the case settled. D.E. 122. The Magistrate Judge granted the motion to withdraw, but held that the attorneys were appointed to represent Plaintiff pro bono and that any expenses would be reimbursed pursuant to the Pro Bono Expense Plan for the Southern District of Texas. The attorneys complain of the Magistrate Judge's ruling and ask this court to grant them leave to file a petition for attorney fees and expenses.

This Court reads the attorneys' appeal as requesting fees and expenses in the event this case settles. Magistrate Judge Jason Libby conducted the mediation in this case. He has advised this Court that the case did not settle. The Court will appoint Plaintiff a new attorney and set the case for trial.

Therefore, at this time, the Court will deny the attorneys' appeal without prejudice. The Court advises the attorneys that attorney fees are generally available only if there is a judgment in favor of the plaintiff. The attorneys may submit a request for recovery of limited expenses pursuant to the Pro Bono Plan of the Southern District of Texas.

This appeal is dismissed without prejudice.

ORDERED this 10th day of March, 2015.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE